UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DAVID G BOYER, SHABBIR A KHAKOO, VIPUL KISHORE LALKA, LEVENT SASMAZEL, PREM SUMETPONG

Application No. 10/672,635

MAILED
JUL 6 2007
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on May 09, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

Evidence Relied Upon

On May 17, 2006, an Examiner's Answer was mailed. A review of the Examiner's Answer reveals that it is not in compliance with the Manual of Patent Examining Procedure (MPEP). In the "Evidence Relied Upon" (section 8), it is indicated that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal".

This section should identify the prior art relied upon to reject the claims on appeal. In accordance with MPEP § 1207.02, the "Evidence Relied Upon" (section 8) should include:

> (8) Evidence Relied Upon
>
> A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

Before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the statement of rejections. Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner for appropriate action on the following:

1) issue and mail a PTOL-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and

2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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